

AMENDED IN ASSEMBLY AUGUST 20, 2008  
AMENDED IN ASSEMBLY JANUARY 17, 2008  
AMENDED IN SENATE APRIL 19, 2007

**SENATE BILL**

**No. 191**

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**Introduced by Senator Padilla**

February 7, 2007

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An act to ~~amend Section 1771.7 of~~ *add Sections 1771.3, 1771.44, and 1771.45 to the Labor Code, relating to public works, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 191, as amended, Padilla. Public works: ~~labor compliance programs.~~ *State Public Works Enforcement Fund.*

Existing law requires an awarding body, as defined, that chooses to use funds from either the Kindergarten-University Public Education Facilities Bond Act of 2002 or the Kindergarten-University Public Education Facilities Bond Act of 2004 for a public works project to initiate and enforce, or contract with a 3rd party to initiate and enforce, a labor compliance program, as defined, for that public works project.

This bill would ~~add~~ *require any state agency or school district that chooses to use the Kindergarten-University Public Education Facilities Bond Act of 2006 or any subsequent education facilities bond act as a source of funds for a public works project that would require an awarding body, if it chooses to use those funds, to initiate and enforce, or contract with a 3rd party to initiate and enforce, a labor compliance program to pay a fee levied by the Director of Industrial Relations to cover administrative expenses for the enforcement of prevailing wage and apprenticeship requirements on projects using those funds.*

*This bill would also require the California High-Speed Rail Authority and any other recipient of funds from the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century to pay those administrative fees, if that act is approved by the voters at the statewide election held on November 4, 2008.*

*This bill would require all fees collected to be deposited into the State Public Works Enforcement Fund, a special fund this bill would create, and from which moneys would be continuously appropriated to the department for purposes, as specified. By authorizing the expenditure of moneys from a continuously appropriated fund, this bill would make an appropriation.*

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1771.3 is added to the Labor Code, to  
2     read:

3     1771.3. The State Public Works Enforcement Fund is hereby  
4     created as a special fund in the State Treasury. Notwithstanding  
5     Section 13340 of the Government Code, moneys in the fund shall  
6     be continuously appropriated to the Department of Industrial  
7     Relations, without regard to fiscal year, for the purposes of  
8     administering and enforcing the prevailing wage and  
9     apprenticeship requirements applicable to public works pursuant  
10    to this chapter and Chapter 4 (commencing with Section 3070) of  
11    Division 3, and may not be used or borrowed for any other  
12    purpose.

13    SEC. 2. Section 1771.44 is added to the Labor Code, to read:

14    1771.44. (a) Notwithstanding any other provision of law, any  
15    state agency and school district that chooses to use funds derived  
16    from the Kindergarten-University Public Education Facilities  
17    Bond Act of 2006 (Chapter 1 (commencing with Section 101000)  
18    of Part 69 of Division 14 of the Education Code) or any subsequent  
19    education facilities bond act approved by the voters, shall be  
20    assessed a fee levied by the Director of Industrial Relations in an  
21    amount not to exceed one-quarter of 1 percent of the contracted  
22    price of their public works project using such bond funds. The fee  
23    shall be set to cover the expenses of the Department of Industrial  
24    Relations for administering the prevailing wage and apprenticeship

requirements applicable to public works that are attributable to such projects. The director shall adopt reasonable regulations setting forth the amount of the fee, the manner of collection of the fee, and the requirements for agencies and awarding bodies to notify the department of their public works projects. All fees collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3, and shall be used only for enforcement of prevailing wage and apprenticeship requirements on projects using bond funds derived from the Kindergarten-University Public Education Facilities Bond Act of 2006.

(b) A state agency or school district covered by this section is not required to administer a labor compliance program or to contract with a third party to administer a labor compliance program.

(c) This section shall not apply to any state agency or school district that received final approval of its labor compliance program from the Department of Industrial Relations on or before December 7, 1996, and chooses to retain their state certified labor compliance program.

SEC. 3. Section 1771.45 is added to the Labor Code, to read:

1771.45. (a) Notwithstanding any other provision of law, the California High-Speed Rail Authority and any other recipients of funds from the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century (Chapter 20 (commencing with Section 2704) of Division 3 of the Streets and Highway Code) shall be assessed a fee levied by the Director of Industrial Relations in an amount not to exceed one-quarter of 1 percent of the contracted price of their public works project using such bond funds. The fee shall be set to cover the expenses of the Department of Industrial Relations for administering the prevailing wage and apprenticeship requirements applicable to public works that are attributable to such projects. The director shall adopt reasonable regulations setting forth the amount of the fee, the manner of collection of the fee, and the requirements for the awarding bodies to notify the department of their public works projects. All fees collected pursuant to this subdivision shall be deposited in the State Public Works Enforcement Fund created by Section 1771.3, and shall be used only for enforcement of prevailing wage and apprenticeship requirements on projects using bond funds derived from the Safe,

1 *Reliable High-Speed Passenger Train Bond Act for the 21st*  
2 *Century.*

3 *(b) The California High-Speed Rail Authority or any other*  
4 *recipient of funds from the Safe, Reliable High-Speed Passenger*  
5 *Train Bond Act for the 21st Century covered by this section is not*  
6 *required to administer a labor compliance program or contract*  
7 *with a third party to administer a labor compliance program.*

8 *(c) This section shall not apply to any recipient of funds from*  
9 *the Safe, Reliable High-Speed Passenger Train Bond Act for the*  
10 *21st Century who is required by federal mandate to operate a*  
11 *labor compliance program.*

12 *(d) This section shall become operative only if the Safe, Reliable*  
13 *High-Speed Passenger Train Bond Act for the 21st Century*  
14 *(Chapter 20 (commencing with Section 2704) of Division 3 of the*  
15 *Streets and Highway Code) is approved by the voters at the*  
16 *statewide election to be held November 4, 2008.*

17 **SECTION 1.** ~~Section 1771.7 of the Labor Code is amended to~~  
18 ~~read:~~

19 ~~1771.7. (a) (1) An awarding body that chooses to use funds~~  
20 ~~derived from the Kindergarten-University Public Education~~  
21 ~~Facilities Bond Act of 2002, the Kindergarten-University Public~~  
22 ~~Education Facilities Bond Act of 2004, or the~~  
23 ~~Kindergarten-University Public Education Facilities Bond Act of~~  
24 ~~2006 for a public works project, shall initiate and enforce, or~~  
25 ~~contract with a third party to initiate and enforce, a labor~~  
26 ~~compliance program, as described in subdivision (b) of Section~~  
27 ~~1771.5, with respect to that public works project.~~

28 ~~(2) If an awarding body described in paragraph (1) chooses to~~  
29 ~~contract with a third party to initiate and enforce a labor compliance~~  
30 ~~program for a project described in paragraph (1), that third party~~  
31 ~~shall not review the payroll records of its own employees or the~~  
32 ~~employees of its subcontractors, and the awarding body or an~~  
33 ~~independent third party shall review these payroll records for~~  
34 ~~purposes of the labor compliance program.~~

35 ~~(b) This section applies to public works that commence on or~~  
36 ~~after April 1, 2003. For purposes of this subdivision, work~~  
37 ~~performed during the design and preconstruction phases of~~  
38 ~~construction, including, but not limited to, inspection and land~~  
39 ~~surveying work, does not constitute the commencement of a public~~  
40 ~~work.~~

~~(e) (1) For purposes of this section, if any campus of the California State University chooses to use the funds described in subdivision (a), then the “awarding body” is the Chancellor of the California State University. For purposes of this subdivision, if the chancellor is required by subdivision (a) to initiate and enforce, or to contract with a third party to initiate and enforce, the labor compliance program described in that subdivision, then in addition to the requirements imposed upon an awarding body by subdivision (b) of Section 1771.5, the Chancellor of the California State University shall review the payroll records described in paragraphs (3) and (4) of subdivision (b) of Section 1771.5 on at least a monthly basis to ensure the awarding body’s compliance with the labor compliance program.~~

~~(2) For purposes of this subdivision, if an awarding body described in subdivision (a) is the University of California or any campus of that university, and that awarding body is required by subdivision (a) to initiate and enforce, or to contract with a third party to initiate and enforce, the labor compliance program described in that subdivision, then in addition to the requirements imposed upon an awarding body by subdivision (b) of Section 1771.5, the payroll records described in paragraphs (3) and (4) of subdivision (b) of Section 1771.5 shall be reviewed on at least a monthly basis to ensure the awarding body’s compliance with the labor compliance program.~~

~~(d) (1) An awarding body described in subdivision (a) shall make a written finding that the awarding body has initiated and enforced, or has contracted with a third party to initiate and enforce, the labor compliance program described in subdivision (a).~~

~~(2) (A) If an awarding body described in subdivision (a) is a school district, the governing body of that district shall transmit to the State Allocation Board, in the manner determined by that board, a copy of the finding described in paragraph (1).~~

~~(B) The State Allocation Board may not release the funds described in subdivision (a) to an awarding body that is a school district until the State Allocation Board has received the written finding described in paragraph (1).~~

~~(C) If the State Allocation Board conducts a postaward audit procedure with respect to an award of the funds described in subdivision (a) to an awarding body that is a school district, the State Allocation Board shall verify, in the manner determined by~~

1 that board, that the school district has complied with the  
2 requirements of this subdivision.

3 (3) If an awarding body described in subdivision (a) is a  
4 community college district, the Chancellor of the California State  
5 University, or the office of the President of the University of  
6 California or any campus of the University of California, that  
7 awarding body shall transmit, in the manner determined by the  
8 Director of the Department of Industrial Relations, a copy of the  
9 finding described in paragraph (1) to the director of that  
10 department, or the director of any successor agency that is  
11 responsible for the oversight of employee wage and employee  
12 work hours laws.

13 (e) Notwithstanding Section 17070.63 of the Education Code,  
14 for purposes of this act, the State Allocation Board shall increase  
15 the grant amounts as described in Chapter 12.5 (commencing with  
16 Section 17070.10) of Part 10 of Division 1 of Title 1 of the  
17 Education Code to accommodate the state's share of the increased  
18 costs of a new construction or modernization project due to the  
19 initiation and enforcement of the labor compliance program. This  
20 subdivision does not affect whether work is covered by paragraph  
21 (1) of subdivision (a) of Section 1720.